

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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Rockville, Maryland 20850  
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<http://www.montgomerycountymd.gov/content/council/boa/board.asp>

**Case No. A-6170**

**PETITION OF CLARENCE I. GESSFORD**  
(Hearing held December 13, 2006)

**OPINION OF THE BOARD**  
(Effective date of Opinion, March 15, 2007)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(a). The petitioner proposes the construction of a one-story addition/sunroom that requires a variance of 10.25 feet as it is within thirty (30) feet of the established front building line. The required established building line is 40.25 feet.

Barbara Gessford appeared with her husband at the public hearing.

The subject property is Lot 50, Block 13, Manor Woods Subdivision, located at 14520 Barkwood Drive, Rockville, Maryland, 20853, in the R-90 Zone (Tax Account No. 01442706).

Decision of the Board: Requested variance **denied.**

**EVIDENCE PRESENTED TO THE BOARD**

1. The petitioner proposes the construction of a 14 x 16 foot one-story addition.
2. The petitioner testified that the subject property is a corner lot located at the intersection of Barkwood Court and Barkwood Drive. The petitioner testified that he has resided in the house since it was built in 1964 and that the property is located on a cul-de-sac.
3. The petitioner testified that the lot is unusually shaped in that it resembles a piano. The petitioner testified that the rear section of the lot is 90 feet in width, while the front section is only 40 feet in width. The petitioner testified that the lot's southern and northern boundaries are unequal because of the cul-de-sac. The petitioner testified that eastern rear yard boundary backs up to a 25-foot right-of-way and that

the total square footage of lot is 13,059 square feet. Exhibit Nos. 4(a) [survey] and 9 [zoning vicinity map].

4. The petitioner testified that the front of the house faces the rear and the rear of the house faces Barkwood Court. The petitioner testified that house is sited in the southwest section of the lot and that it faces the right-of-way. The petitioner testified that the house could not be located elsewhere on the property because of lot's unusual configuration. The petitioner testified that the topography at the front of the house is lower and that new construction can not be built in this area. The petitioner testified that the addition would be located on an existing patio and that the the addition, as proposed, would not impact the utilities that feed the property.

### **FINDINGS OF THE BOARD**

Based upon the petitioner's binding testimony and the evidence of record, the Board finds that the variance must be denied. The requested variance does not comply with the applicable standards and requirements set forth in Section 59-G-3.1(a) as follows:

*(a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.*

The Board finds that the while the shape of the petitioner's lot is distinctive, the size of the lot compensates for its unusual configuration. The Board finds that the location of the house on the subject property is not a factor the Board can take into account in evaluating the petition for a variance. (*Umerley v. People's Counsel*, 108 Md. App. 497, 506 (1996) citing *North v. St. Mary's County*, 99 Md. App. 502, 514 (1994).

The Board notes that the petitioner's lot size considerably exceeds the minimum lot size for the zone and that new construction could be built on the lot without the need for a variance.

The petition does not meet the requirements of Section 59-G-1.3(a) and the Board did not consider the other requirements in that section for the grant of a variance. Accordingly, the requested variance of 10.25 feet from the required 40.25 foot established front building line for the construction of a one-story addition is denied.

The Board adopted the following Resolution:

Board member Donna L. Barron was necessarily absent and did not participate in this Resolution. On a motion by Allison Ishihara Fultz, Chair, seconded by Caryn L. Hines, with Wendell M. Holloway and Catherine G. Titus, in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above is adopted as the Resolution required by law as its decision on the above entitled petition.

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Allison Ishihara Fultz  
Chair, Montgomery County Board of Appeals

I do hereby certify that the foregoing  
Opinion was officially entered in the  
Opinion Book of the County Board of  
Appeals this 15th day of March, 2007.

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Katherine Freeman  
Executive Director

**NOTE:**

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.